

ORIGINAL

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	MM Docket No. 97-138
	)	
Review of the Commission's Rules	)	
regarding the main studio and	)	RM-8855, RM-8856, RM-8857,
local public inspection files of	)	RM-8858, RM-8872
broadcast television and radio stations	)	

**REPLY COMMENTS BY THE  
NAMED STATE BROADCASTERS ASSOCIATIONS**

The Alabama Broadcasters Association, the Alaska Broadcasters Association, the Connecticut Broadcasters Association, the Iowa Broadcasters Association, the Kansas Association of Broadcasters, the Kentucky Broadcasters Association, the Louisiana Association of Broadcasters, the Maine Association of Broadcasters, the Massachusetts Broadcasters Association, the Minnesota Broadcasters Association, the Missouri Broadcasters Association, the Nebraska Broadcasters Association, the New Hampshire Association of Broadcasters, the Ohio Association of Broadcasters, the Oklahoma Association of Broadcasters, the Oregon Association of Broadcasters, the South Carolina Broadcasters Association, the Texas Association of Broadcasters, the Vermont Association of Broadcasters, and the Washington State Association of Broadcasters (collectively, the "Associations"), by their attorneys and pursuant to § 1.429 of the Commission's Rules, 47 C.F.R. § 1.429, hereby jointly submit this Reply to the Opposition to Petitions For Reconsideration filed by the Office of Communication, Inc. of the United Church of

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Christ, Media Access Project, the Center for Media Education and the Minority Media and Telecommunications Council (collectively, “UCC *et al*”) in the above-referenced proceeding.<sup>1/</sup>

### **INTRODUCTION AND SUMMARY**

1. As permitted under the Commission’s rules,<sup>2/</sup> the Associations petitioned for limited reconsideration of the Commission’s Report and Order amending the Main Studio Rule and Public Inspection File Rule. Specifically, the Associations urged the Commission to

(a) delete the obligation that licensees respond to telephone inquiries about their public inspection files and political files or, in the alternative, to limit such obligation to those licensees which have moved their public files pursuant to the relaxed restrictions of the new Main Studio Rule;

(b) in any event, delete the obligation that licensees pay for postage in connection with requests for documents in a station’s public inspection file; and

(c) limit the new requirement for disclosure of E-mail to the station’s Website.

2. The Associations applaud the Commission’s genuine desire to strike a reasonable balance between the interests of the public in having access to each station’s main studio and public file while minimizing the regulatory burdens on the nation’s broadcast licensees.<sup>3/</sup>

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<sup>1/</sup> In the Matter of Review of the Commission’s Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations, Report and Order, (“Report and Order”), MM Docket No. 97-138, FCC 98-175 (August 11, 1998).

<sup>2/</sup> 47 C.F.R. 1.106 (1998).

<sup>3/</sup> Id. at para. 5.

## **ARGUMENT**

### **I. The Ad Hominem Attack by UCC et al against the Associations in Connection with their Participation in this Rule Making is Inappropriate and Unwarranted**

3. In its Opposition, UCC *et al* alleges that the suggestions of the Associations in their petition for limited reconsideration were “arrogant, petty and unreasonable.”<sup>4/</sup> UCC et al prides itself for working with the Commission to craft rules and regulations that serve the public interest. The Associations respect UCC et al’s right to do so and would expect that UCC et al would respect the Associations’ right to disagree with the results of such collaboration. UCC et al does not contest that the Associations have a genuine interest in this matter on behalf of their members who, it is submitted, will be unreasonably burdened by some of the new regulations. Notwithstanding UCC et al’s Opposition, the Associations continue to believe that certain of the new regulations are unreasonable as a matter of law and that the Commission should give those concerns impartial review uninfluenced by UCC et al’s name-calling.

### **II. There Are Important Areas of Agreement Between the Associations and UCC et al**

4. While UCC et al would emphasize the differences between their position and that of the broadcast industry, there are important areas of agreement. First, the Associations wholeheartedly agree with UCC *et al* that a station’s political file should be exempt from the telephone disclosure and mailing requirements of the new Public Inspection File Rule. Further, the Associations are willing to modify their position on the issue of disclosing the contents of station employee e-mails. The Associations are willing to accept UCC et al’s proposal that personal employee e-mails, which may or may not address station issues, should be turned

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<sup>4/</sup> Opposition, iii.

over to a designated individual who will make the final determination of whether a particular e-mail should be publicly disclosed. In their petition for limited reconsideration, the Associations voiced their concerns that e-mail review would invade an employee's privacy. However, in order to insure that all the comments of the public about a station's operations are addressed in a timely and efficient manner, the Associations acknowledge the need for review and disclosure of personal e-mails to enhance the dialogue between broadcasters and the public. Nevertheless, the Associations urge the Commission to reconsider several other limited aspects of the new Public Inspection File Rule which are overly broad and unduly burdensome.

**III. Certain Aspects of the Commission's New Public Inspection File Rule Must be Reconsidered**

5. The newly created telephone inquiry right under the Public Inspection File Rule is wholly re-regulatory. The record does not support the need for such right, particularly for stations which do not move their public inspection files as a result of the Main Studio Rule change. There is no evidence that the station visits under the old Public Inspection File Rule are now inadequate. There has been no public outcry. The base fine for a Public Inspection File Rule violation is \$10,000.00. The new right creates, for the first time, the risk that every telephone call under the Public Inspection File Rule could become the basis for a \$10,000 fine. Where is the proportionality? Moreover, the requirement that a station pay postage for anyone wanting to receive the contents of a public file is equally unreasonable. UCC et al does not offer any evidence of such need. The new regulation is clearly burdensome. To avoid this, the cost of postage, as in the case of the cost of photocopying, should be borne by the person requesting the information.

6. If the Commission reaffirms its telephone inquiry right, it should expressly permit broadcasters to use a "Public Inspection File Order Form," or "PIF" that will contain (a) a list of

the documents the caller requested; (b) the number of pages of each document; (c) the cost of copying each document, (d) and the cost of postage. The caller should review the "PIF Order Form" for accuracy, sign it, enclose payment for the requisite amount, and mail the form and payment back to the station. This process will insure that the public is efficiently served while minimizing the chance for inadvertent error on the part of the station mailing the requested documents.

**CONCLUSION**

While the Associations respect the Commission's efforts to re-examine its original Public Inspection File Rule, and support various changes, further fine-tuning is required under the Administrative Procedure Act, the Paperwork Reduction Act, and the Regulatory Flexibility Act, consistent with the Associations' petition for limited reconsideration and this reply.

Respectfully submitted,

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Dated: December 14, 1998  
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**CERTIFICATE OF SERVICE**

I, Susan R. Fisenne, do hereby certify that this 14th day of December, 1998, copies of the foregoing **"Reply Comments by the Named State Broadcasters Associations"** were sent to the following:

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